

V O L U M E    I I

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
C.A. No. 04-11193NG

SHAWN DRUMGOLD,

Plaintiff,

vs.

TIMOTHY CALLAHAN, FRANCIS M. ROACHE,  
THE ESTATE OF PAUL MURPHY, RICHARD  
WALSH, AND THE CITY OF BOSTON,

Defendants.

McCarter & English  
245 Park Avenue  
New York, New York

May 30, 2007  
10:00 a.m.

CONTINUED VIDEOTAPED ORAL DEPOSITION of  
MADELYNE POWELL HAMILTON, a nonparty witness  
herein, taken by the Plaintiff, pursuant to  
Notice, held at the above-captioned time and  
place, before Hanna Roth, Shorthand Reporter and  
Notary Public of the State of New York.

<p>355</p> <p>1 Madelyne Hamilton</p> <p>2 he said he was, an investigator investigating,</p> <p>3 you know.</p> <p>4 Q. Did you understand that investigators</p> <p>5 normally get hired by somebody to go investigate?</p> <p>6 A. It didn't cross my mind. It really</p> <p>7 didn't.</p> <p>8 Q. It never crossed your mind to wonder</p> <p>9 who it was that had hired him to investigate?</p> <p>10 A. No.</p> <p>11 Q. On the day you got subpoenaed, you</p> <p>12 still didn't know who had hired John Gamel; is</p> <p>13 that what you're telling us?</p> <p>14 A. That's why I called him.</p> <p>15 Q. Okay. Did you understand that the</p> <p>16 subpoena was in connection with the conversations</p> <p>17 you had had with John Gamel?</p> <p>18 A. I thought so, yes. Yes.</p> <p>19 Q. Had he told you you were going to be</p> <p>20 deposed?</p> <p>21 A. No.</p> <p>22 Q. Had anyone told you before you got</p> <p>23 that subpoena you were going to be deposed?</p> <p>24 A. No. No, no.</p> <p>25 Q. What did Mr. Gamel say when you called</p>	<p>357</p> <p>1 Madelyne Hamilton</p> <p>2 Q. Did she leave a message for you?</p> <p>3 A. No. She got me -- she got me. The</p> <p>4 first time she called me, she got me.</p> <p>5 Q. All right. What did she say the first</p> <p>6 time she called?</p> <p>7 A. My name is so-and-so, from West</p> <p>8 Bunnel, wherever, I don't remember, and she</p> <p>9 wanted to know if she could come to the house and</p> <p>10 would I -- she was coming out to the house to</p> <p>11 serve me a subpoena. She wanted to know if I was</p> <p>12 near the water or near whatever. And I said I'm</p> <p>13 not -- I asked her what it was for. She told me</p> <p>14 what it was for. I said I'm not accepting it.</p> <p>15 Q. What did she tell you it was for?</p> <p>16 A. Case of Shawn Drumgold versus</p> <p>17 something.</p> <p>18 Q. And why did you tell her you're not</p> <p>19 going to accept it?</p> <p>20 A. 'Cause, I didn't know what -- I never</p> <p>21 been subpoenaed. I have been in court a lot of</p> <p>22 times for a lot like Rhonda's fathers, Family</p> <p>23 Court and whatever. I've never been subpoenaed.</p> <p>24 So I didn't know exactly what the subpoena was</p> <p>25 and all that kind of stuff. I really didn't</p>
<p>356</p> <p>1 Madelyne Hamilton</p> <p>2 him?</p> <p>3 A. I told him that I got -- no. Let me</p> <p>4 correct that. He wasn't the first person I</p> <p>5 called.</p> <p>6 The first person I called was someone</p> <p>7 on -- I don't even remember her name. Somebody</p> <p>8 that was on that subpoena. She called me before</p> <p>9 I got the subpoena. That's what happened.</p> <p>10 Okay.</p> <p>11 She called me. This woman called me</p> <p>12 first and said that would I -- she was coming out</p> <p>13 to give me -- serve me a subpoena, and I said,</p> <p>14 for what? I said, for what? And she said --</p> <p>15 that's when she said the case or whatever. And I</p> <p>16 said I'm not accepting it.</p> <p>17 Q. Who was this woman who called you?</p> <p>18 A. I don't know. It was -- I got the</p> <p>19 name -- she was -- I don't know who she was.</p> <p>20 Q. Was her name on the subpoena?</p> <p>21 A. Her name wasn't. It was an office or</p> <p>22 something, somebody. And I called and -- she</p> <p>23 called first. She called me and she gave me her</p> <p>24 phone number. No. She didn't give me her phone</p> <p>25 number. I got the phone number off the caller ID.</p>	<p>358</p> <p>1 Madelyne Hamilton</p> <p>2 know.</p> <p>3 Q. Do you know whether she told you she</p> <p>4 was calling from a law firm or from a sheriff's</p> <p>5 office, you know, what type of place, in general,</p> <p>6 she was calling you from?</p> <p>7 A. I think it was from a law firm. I</p> <p>8 don't think it was from a sheriff's place.</p> <p>9 Q. If I suggest Bonner -- I could never</p> <p>10 remember that. Bonner, Kiernan, Trebach &amp;</p> <p>11 Crociata?</p> <p>12 A. That's it, whatever.</p> <p>13 Q. So this woman who called you said that</p> <p>14 she was calling you from Bonner, Kiernan, Trebach</p> <p>15 &amp; Crociata?</p> <p>16 A. Yes.</p> <p>17 Q. And do you remember her name?</p> <p>18 A. No.</p> <p>19 Q. All right. So what was the next thing</p> <p>20 after that conversation? Was anything else said</p> <p>21 during that conversation?</p> <p>22 A. I asked her, excuse me, about the</p> <p>23 subpoena and she said about -- that's when she</p> <p>24 mentioned the word "deposition," and I said to</p> <p>25 her, I told her that I was sick. I told her that</p>

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1 Madelyne Hamilton  
 2 I was sick and whatever, and she said that  
 3 they're not going to do the deposition in  
 4 Massachusetts, they're going to do it in New  
 5 York, so just accept it and -- she said you have  
 6 to accept it and I said no. I said no. I said  
 7 no.  
 8 Q. If I suggest to you the name Kate, do  
 9 you remember that as being the name of the person  
 10 who called you?  
 11 A. I honestly couldn't say, but I  
 12 remember the B-O-N-N.  
 13 Q. Okay. And when she told you that you  
 14 were being subpoenaed for the deposition, the  
 15 first thing you told her is that you were sick;  
 16 is that right?  
 17 A. No. The first thing I asked her, what  
 18 was it for.  
 19 Q. Okay. And she told you?  
 20 A. And she told me whatever.  
 21 Q. And then you told her you were sick?  
 22 A. I told her that I -- that I am -- I  
 23 don't want to testify. I'm not -- I said I'm not  
 24 going to testify, I don't want to testify, I  
 25 don't want to get involved. It's been -- I went

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1 Madelyne Hamilton  
 2 through the whole thing. I said it's been 18  
 3 years, whatever. I said what are you -- you  
 4 know, why are you bothering me now for,  
 5 whatever. She said just will you please just --  
 6 she was really nice. She wasn't ignorant about  
 7 it. And said will you just please take it, and I  
 8 said no. But she came --  
 9 Q. Let me get to you before we get to her  
 10 coming.  
 11 A. Okay.  
 12 Q. But you did tell her in that first  
 13 conversation that you were sick?  
 14 A. Yes. I mentioned that I was ill,  
 15 right.  
 16 Q. And you told her that was one of the  
 17 reasons you didn't want to do the deposition,  
 18 because you were sick?  
 19 A. No.  
 20 Q. No, you didn't tell her that?  
 21 A. I didn't tell her that was the  
 22 reason. I told her that I'm not -- I'm not  
 23 testifying. What I said was I'm not testifying,  
 24 I don't want to get involved and I'm not going to  
 25 Boston. I told her that I'm sick. That wasn't

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1 Madelyne Hamilton  
 2 like one of the reasons why I wasn't going. I  
 3 just told her point blank I wasn't accepting it  
 4 and I didn't -- I wasn't coming. I wasn't going.  
 5 Q. When you said you were sick, what were  
 6 you referring to?  
 7 A. My medical problems I have, plus I had  
 8 five kids home.  
 9 Q. What medical problems do you have?  
 10 A. I have a whole lot, a host of them.  
 11 Q. Okay. Let's go.  
 12 A. I have osteoporosis -- osteoarthritis. I  
 13 am diabetic, I have neuropathy, I have a slight  
 14 heart problem and edema.  
 15 Q. Who treats you for the osteoarthritis?  
 16 MS. HARRIS: Just object to this  
 17 having been gone over the first time, but go  
 18 ahead.  
 19 THE WITNESS: Pardon?  
 20 MS. HARRIS: Go ahead. I'm just  
 21 objecting because we did this already.  
 22 A. Dr. Tupper.  
 23 Q. How often do you see Dr. Tupper?  
 24 A. Once a month, when needed, when  
 25 needed.

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1 Madelyne Hamilton  
 2 Q. Do you have any medication that you  
 3 take for that problem?  
 4 A. Yeah.  
 5 Q. What medication do you take?  
 6 A. I take Clinoril, Flexiril, let me  
 7 think. Immucal (phonetic).  
 8 Q. And where is Dr. Tupper's office?  
 9 A. 333 West 52nd -- West 51st, I'm sorry.  
 10 Q. Other than the medication, do you have  
 11 any other treatment for the arthritis?  
 12 A. No. I basically -- I have been a  
 13 Christian Scientist since 1960, so I try not  
 14 to -- I try to work it out otherwise.  
 15 Q. And the diabetes, who treats you for  
 16 that?  
 17 A. I talk to Irene Shapiro.  
 18 Q. Where is her office?  
 19 A. 65 Central Park West.  
 20 Q. And what treatment do you get for the  
 21 diabetes?  
 22 A. Insulin dependent.  
 23 Q. How long have you been insulin  
 24 dependent?  
 25 A. Twelve, 13 years.

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<p>363</p> <p>1 Madelyne Hamilton</p> <p>2 Q. Other than insulin, do you have any</p> <p>3 other treatment?</p> <p>4 A. For the diabetes?</p> <p>5 Q. For the diabetes.</p> <p>6 A. No.</p> <p>7 Q. The neuropathy, what is that? What is</p> <p>8 that problem?</p> <p>9 A. That's deadening of the nerves from</p> <p>10 the sugar eating the nerves and leaving the —</p> <p>11 leaving the nerves exposed or whatever. It's</p> <p>12 very pain — you know like.</p> <p>13 Q. And is it your understanding that's</p> <p>14 connected to the diabetes or caused by the</p> <p>15 diabetes?</p> <p>16 A. Yes, it is. It's caused by the</p> <p>17 diabetes.</p> <p>18 Q. And where is it that you have</p> <p>19 neuropathy?</p> <p>20 A. I have it in my feet and my hands.</p> <p>21 Q. Do you take any medication for that?</p> <p>22 A. I try not to.</p> <p>23 Q. Who treats you for that?</p> <p>24 A. Dr. Shapiro.</p> <p>25 Q. And how often —</p>	<p>365</p> <p>1 Madelyne Hamilton</p> <p>2 Q. How frequently do you have the</p> <p>3 nitroglycerin patch?</p> <p>4 A. Maybe twice, three times a week.</p> <p>5 Q. Have you ever been hospitalized as a</p> <p>6 result of the heart problem?</p> <p>7 A. No.</p> <p>8 Q. Have you ever been hospitalized as a</p> <p>9 result of palpitations or panic palpitations?</p> <p>10 A. No, I won't go.</p> <p>11 Q. And the edema, who treats you for</p> <p>12 that?</p> <p>13 A. All of them.</p> <p>14 Q. Do you have any medications for the</p> <p>15 edema?</p> <p>16 A. Lipitor, Lasix.</p> <p>17 Q. Do you have any treatment for that,</p> <p>18 other than the medication?</p> <p>19 A. No.</p> <p>20 Q. Do you have any other medical problems</p> <p>21 that we haven't talked about?</p> <p>22 A. No.</p> <p>23 Q. Have you ever been diagnosed as having</p> <p>24 cancer?</p> <p>25 A. I haven't been diagnosed 'cause -- no.</p>
<p>364</p> <p>1 Madelyne Hamilton</p> <p>2 A. St. Vincent's clinic.</p> <p>3 Q. And how often do you get treatment in</p> <p>4 connection with the neuropathy?</p> <p>5 A. Well, neuropathy comes and goes, so</p> <p>6 whenever it flares up. If it flares up, I go.</p> <p>7 Q. What do they do for you when it flares</p> <p>8 up?</p> <p>9 A. They give me a new prescription for</p> <p>10 something they're trying to -- there is really no</p> <p>11 medication for that.</p> <p>12 Q. Who treats you for your heart problem?</p> <p>13 A. Dr. Tupper.</p> <p>14 Q. And what type of heart problem do you</p> <p>15 have?</p> <p>16 A. Panic palpitations.</p> <p>17 Q. How frequently do you have panic</p> <p>18 palpitations?</p> <p>19 A. With kids, every day.</p> <p>20 Q. What kind of treatment do you get for</p> <p>21 that problem?</p> <p>22 A. The nitroglycerin patch.</p> <p>23 Q. Do you wear a nitroglycerin patch all</p> <p>24 the time?</p> <p>25 A. No.</p>	<p>366</p> <p>1 Madelyne Hamilton</p> <p>2 Q. Have you ever been told that you have</p> <p>3 cancer?</p> <p>4 A. Yes. Someone has said it.</p> <p>5 Q. And when was that?</p> <p>6 A. Two years ago.</p> <p>7 Q. What type of cancer?</p> <p>8 A. Colon.</p> <p>9 Q. And were you treated for that?</p> <p>10 A. No. I'm working that out with a</p> <p>11 Christian Science practitioner.</p> <p>12 Q. Is any doctor treating you for cancer?</p> <p>13 A. No.</p> <p>14 Q. Do you have any symptoms that you've</p> <p>15 been told are caused by --</p> <p>16 A. Bleeding.</p> <p>17 Q. Internal bleeding?</p> <p>18 A. No, the rectal -- it's very</p> <p>19 embarrassing.</p> <p>20 Q. I don't want to embarrass you any more</p> <p>21 than necessary. But you're not having any</p> <p>22 medical treatment for that problem; is that</p> <p>23 correct?</p> <p>24 A. No. I'm working it out, like I said,</p> <p>25 with --</p>

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<p style="text-align: right;">367</p> <p>1 Madelyne Hamilton</p> <p>2 Q. Who told you that you have that</p> <p>3 diagnosis?</p> <p>4 A. St. Clare's Hospital.</p> <p>5 Q. Who at St. Clare's Hospital?</p> <p>6 A. Pardon?</p> <p>7 Q. Who at St. Clare's Hospital?</p> <p>8 A. One of the medical -- in the medical</p> <p>9 clinic.</p> <p>10 Q. Do you have any doctor that you're</p> <p>11 seeing regularly at St. Clare's Hospital?</p> <p>12 A. No.</p> <p>13 Q. How was it that you ended up there, at</p> <p>14 St. Clare's Hospital?</p> <p>15 A. I was bleeding profusely.</p> <p>16 Q. Have you had any medical treatment for</p> <p>17 that problem?</p> <p>18 A. No, only home remedies, health -- home</p> <p>19 health.</p> <p>20 Q. Do you have any other medical problems</p> <p>21 that you're being -- that you're treating through</p> <p>22 a Christian Science practitioner or through</p> <p>23 Christian Science?</p> <p>24 A. No. That's it.</p> <p>25 Q. When you told the person who called</p>	<p style="text-align: right;">369</p> <p>1 Madelyne Hamilton</p> <p>2 A. Right.</p> <p>3 Q. What's the next thing that happened?</p> <p>4 A. She came. I didn't open the door.</p> <p>5 Q. Okay. Were you in the apartment when</p> <p>6 she came?</p> <p>7 A. Yes.</p> <p>8 Q. Did she get to your front door?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have security in your building?</p> <p>11 A. Supposed to.</p> <p>12 Q. All right. Do you know how she got</p> <p>13 past the security in your building?</p> <p>14 A. Just like all the others.</p> <p>15 Q. So do you know how she did that?</p> <p>16 A. Well, what they usually do is they</p> <p>17 wait for somebody to come in, you know. They</p> <p>18 wait and they wait for somebody like, you know,</p> <p>19 who is going in and out the building and they</p> <p>20 catch the door and they come up and they go to</p> <p>21 wherever.</p> <p>22 Q. So at some point somebody was knocking</p> <p>23 on your door; is that how you learned of it?</p> <p>24 A. Right.</p> <p>25 Q. What did that person say?</p>
<p style="text-align: right;">368</p> <p>1 Madelyne Hamilton</p> <p>2 you with the information that you were going to</p> <p>3 be subpoenaed that you were sick, what were you</p> <p>4 referring to?</p> <p>5 A. Everything.</p> <p>6 Q. Okay. And what was the next</p> <p>7 conversation you had about the subpoena, after</p> <p>8 that first conversation with the person from the</p> <p>9 law firm?</p> <p>10 A. She said that she was going to come,</p> <p>11 you know, and serve me.</p> <p>12 Q. And did you talk to her again?</p> <p>13 A. I talked to her. She came one time</p> <p>14 and she called back again. She called back the</p> <p>15 second time.</p> <p>16 Q. Now, you mentioned at one point that</p> <p>17 you got her number off a caller ID and called her</p> <p>18 back.</p> <p>19 A. Yes.</p> <p>20 Q. When did that happen?</p> <p>21 A. That happened after she slipped it</p> <p>22 underneath the door.</p> <p>23 Q. Okay. So you got the telephone call</p> <p>24 and she asked if you would accept service,</p> <p>25 correct, and you said no?</p>	<p style="text-align: right;">370</p> <p>1 Madelyne Hamilton</p> <p>2 A. She didn't say anything. She didn't</p> <p>3 say anything.</p> <p>4 Q. What did she do?</p> <p>5 A. She just kept ringing the bell.</p> <p>6 Q. Okay. And you didn't answer?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because I knew it was her.</p> <p>10 Q. How did you know it was her?</p> <p>11 A. Because I don't have, you know, a lot</p> <p>12 of company. I don't have company and she had</p> <p>13 said she was on her way and she wanted to -- when</p> <p>14 she called me, she asked me are you near the</p> <p>15 water, so I knew she was near the water. I live</p> <p>16 near the water.</p> <p>17 Q. How much time from the telephone call</p> <p>18 to this person knocking on the door?</p> <p>19 A. Maybe 40 minutes, maybe 40 minutes, 45</p> <p>20 minutes.</p> <p>21 Q. Did they do anything other than knock</p> <p>22 on the door?</p> <p>23 A. Rang the bell. She didn't knock.</p> <p>24 Q. Did they do anything else?</p> <p>25 A. No. They left.</p>

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<p>375</p> <p>1 Madelyne Hamilton</p> <p>2 called about the subpoena?</p> <p>3 A. Right.</p> <p>4 Q. Did you tell John Gamel that you were</p> <p>5 sick and ill?</p> <p>6 A. Yes.</p> <p>7 Q. What did he say when you told him</p> <p>8 that?</p> <p>9 A. I'm sorry, I mean, something</p> <p>10 sympathetic.</p> <p>11 Q. Did you tell him that that was one of</p> <p>12 the reasons you didn't want to be -- go through</p> <p>13 this deposition, because of your health problems?</p> <p>14 A. Yeah. And I told him -- yeah. I told</p> <p>15 him that and I told him that me getting upset and</p> <p>16 all that is not going to do me any good and I --</p> <p>17 if I had knew that talking to him was going to</p> <p>18 lead to this, I wouldn't have opened my damn</p> <p>19 mouth. That's what I said.</p> <p>20 Q. At that point, were you upset with</p> <p>21 yourself for having talked to him and encouraged</p> <p>22 him to subpoena you?</p> <p>23 MR. ROACHE: Objection.</p> <p>24 A. I didn't know she was going -- I</p> <p>25 didn't know he was going to subpoena me, but when</p>	<p>377</p> <p>1 Madelyne Hamilton</p> <p>2 A. Oh, next person. I called -- I called</p> <p>3 my brother and I asked him did he have the name</p> <p>4 of a lawyer because at that time I thought that I</p> <p>5 needed a lawyer to represent me because he was</p> <p>6 saying like, you know, there's going to be</p> <p>7 lawyers and blah-blah-blah, so I said, well,</p> <p>8 maybe I need a lawyer.</p> <p>9 Q. Let me just go back for a minute. Did</p> <p>10 you ask John Gamel about whether you needed a</p> <p>11 lawyer?</p> <p>12 A. No.</p> <p>13 Q. Did you talk to the person who served</p> <p>14 the subpoena about whether you needed a lawyer?</p> <p>15 A. No. No.</p> <p>16 Q. What's your brother's name?</p> <p>17 A. Joshua Powell.</p> <p>18 Q. Where does he live?</p> <p>19 A. 357 Seaver Street, Dorchester.</p> <p>20 Q. And did you understand that the</p> <p>21 deposition you've been subpoenaed for was going</p> <p>22 to take place in Boston -- excuse me, in New</p> <p>23 York?</p> <p>24 A. After I read it, yes.</p> <p>25 Q. Okay. And why was it that you were</p>
<p>376</p> <p>1 Madelyne Hamilton</p> <p>2 I found out --</p> <p>3 Q. When you found out he was going to</p> <p>4 subpoena you, were you wishing you hadn't talked</p> <p>5 to him?</p> <p>6 MR. ROACHE: Objection.</p> <p>7 A. It wasn't a question of -- it would</p> <p>8 have been anybody that had subpoenaed me for</p> <p>9 anything. Even Rhonda. Anybody. It wasn't just</p> <p>10 him, per se.</p> <p>11 Q. You didn't want to be deposed, though;</p> <p>12 is that fair?</p> <p>13 A. No. No.</p> <p>14 Q. That's correct, you didn't want to be</p> <p>15 deposed?</p> <p>16 A. No, I didn't.</p> <p>17 Q. Okay. And when you told John Gamel</p> <p>18 that one of the reasons you didn't want to be</p> <p>19 deposed was your health problems, what did he say</p> <p>20 to you?</p> <p>21 A. He said there is nothing to worry</p> <p>22 about. He said you just go answer the questions</p> <p>23 and tell the truth.</p> <p>24 Q. Who was the next person you talked to</p> <p>25 about this subpoena?</p>	<p>378</p> <p>1 Madelyne Hamilton</p> <p>2 calling your brother in Boston about questions</p> <p>3 about lawyers?</p> <p>4 A. Because I never -- well, any -- any</p> <p>5 other time I went to court, I always was</p> <p>6 represented.</p> <p>7 Q. Okay. Had you been represented by</p> <p>8 lawyers in New York?</p> <p>9 A. Yeah, law guardians, whatever.</p> <p>10 Q. And did you call any of those people</p> <p>11 who had previously represented you in New York?</p> <p>12 A. No. They were adoption lawyers.</p> <p>13 Q. Okay. When you called your brother in</p> <p>14 New York, excuse me, in Boston, what did you say</p> <p>15 to him?</p> <p>16 A. I told him that I got a deposition, I</p> <p>17 got a subpoena for a deposition. I got a</p> <p>18 subpoena for a deposition. I don't know if I</p> <p>19 need a lawyer, do you know a lawyer, and he gave</p> <p>20 me a name.</p> <p>21 Q. And did you tell your brother that you</p> <p>22 were sick and for that reason you didn't want to</p> <p>23 go to the deposition?</p> <p>24 A. No. He knows I have medical problems.</p> <p>25 Q. Do you remember saying the first day</p>

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<p style="text-align: right;">379</p> <p>1 Madelyne Hamilton</p> <p>2 of your deposition, "What I did was I called my</p> <p>3 brother in Boston. I asked him, I said do I need</p> <p>4 a lawyer? I said, you know, I'm sick and I said</p> <p>5 these people are just, you know, and I explained</p> <p>6 to the person that I wasn't going to accept it."</p> <p>7 Do you remember that's what you said</p> <p>8 the first day of the deposition?</p> <p>9 A. Yeah, maybe.</p> <p>10 Q. And if you think about it today, in</p> <p>11 fact, you told your brother in that conversation</p> <p>12 that one of the reasons you didn't want to be</p> <p>13 deposed was because you were sick; is that</p> <p>14 correct?</p> <p>15 MR. ROACHE: Objection.</p> <p>16 MR. WHITE: Objection.</p> <p>17 MS. HARRIS: Objection.</p> <p>18 A. Not as a matter of fact, like that's</p> <p>19 the reason I don't want to come. I wasn't going</p> <p>20 to come. Speaking like I'm sick, what do people</p> <p>21 want? I'm not going to Boston.</p> <p>22 Q. So one of the reasons you didn't want</p> <p>23 to be deposed was because you were sick?</p> <p>24 A. Yes.</p> <p>25 Q. And what did your brother say to you?</p>	<p style="text-align: right;">381</p> <p>1 Madelyne Hamilton</p> <p>2 name, this number, and see if they can help you.</p> <p>3 Q. Did you understand that Mr. Denner was</p> <p>4 in Boston?</p> <p>5 A. Yes.</p> <p>6 Q. He had a Boston number, correct, 617?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And did you call Mr. Denner?</p> <p>9 A. Yes, I did.</p> <p>10 Q. And who did you talk to?</p> <p>11 A. Oh, boy, I can't remember her name.</p> <p>12 It was a female. He was a criminal lawyer or</p> <p>13 something, something, and they transferred me to</p> <p>14 a female that was in civil litigation or</p> <p>15 something.</p> <p>16 Q. Okay. Did you ever actually talk to</p> <p>17 Mr. Denner?</p> <p>18 A. No. No.</p> <p>19 Q. Do you remember the name of the woman</p> <p>20 that you talked to in Mr. Denner's office?</p> <p>21 A. No, I don't.</p> <p>22 Q. Do you remember telling that woman,</p> <p>23 when you talked to her, that you didn't want to</p> <p>24 be deposed because you were too sick to be</p> <p>25 deposed?</p>
<p style="text-align: right;">380</p> <p>1 Madelyne Hamilton</p> <p>2 A. He said all I can tell you is I will</p> <p>3 give you a name and he gave me a name.</p> <p>4 Q. What was the name?</p> <p>5 A. I don't know. I gave it to the -- the</p> <p>6 first time.</p> <p>7 Q. Do you remember Mr. Denner?</p> <p>8 A. That's the office, right.</p> <p>9 Q. When you got the subpoena, did you</p> <p>10 notice there were a bunch of lawyers' names on</p> <p>11 the subpoena?</p> <p>12 A. In the back.</p> <p>13 Q. Did you call any of those lawyers?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. I didn't know who they were and who</p> <p>17 they were for. I don't know. I wasn't calling</p> <p>18 for who was on the subpoena. I was looking for a</p> <p>19 lawyer for me.</p> <p>20 Q. Did you know who represented Shawn?</p> <p>21 A. No.</p> <p>22 Q. What did your brother tell you about</p> <p>23 Mr. Denner?</p> <p>24 A. He didn't tell me anything about him.</p> <p>25 He just said call this -- you know, call this</p>	<p style="text-align: right;">382</p> <p>1 Madelyne Hamilton</p> <p>2 A. That was one -- that was one of the</p> <p>3 things I said to her.</p> <p>4 Q. Okay. And what did she say to you?</p> <p>5 A. She asked me what was this -- what was</p> <p>6 it about. I told her what was it about. She</p> <p>7 said she would call me back. She called me back</p> <p>8 and she said they charge 450 an hour and I said</p> <p>9 good-bye, I went, you know, like that, and she</p> <p>10 said that she was -- there was an office, there</p> <p>11 was somebody in the building, someone in the</p> <p>12 building that she would talk to, that she knew</p> <p>13 that was very good, and she gave me a name and a</p> <p>14 number. She said call that number. She said</p> <p>15 they may be in court, but leave a message. She</p> <p>16 said leave a message and I'll try to get to that</p> <p>17 person before you and explain to her what you</p> <p>18 said.</p> <p>19 Q. And whose name did she give you?</p> <p>20 A. I can't -- I can't pronounce the</p> <p>21 name. I don't want to -- I can't pronounce the</p> <p>22 name.</p> <p>23 Q. Was it Ms. Scapicchio, is that the</p> <p>24 name she gave you?</p> <p>25 A. Ms. Scapicchio.</p>

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<p style="text-align: right;">387</p> <p>1 Madelyne Hamilton</p> <p>2 Q. So you told Ms. Scapicchio that you</p> <p>3 were sick and you couldn't go?</p> <p>4 A. Yes.</p> <p>5 Q. And that was in the first conversation</p> <p>6 you had with Ms. Scapicchio?</p> <p>7 A. The first conversation I had with her</p> <p>8 she said -- she announced who she was. She said</p> <p>9 I'm returning your call. I said -- I went on and</p> <p>10 I said about -- I think I mentioned about the</p> <p>11 deposition, Shawn Drumgold, and I told her I was</p> <p>12 sick.</p> <p>13 Q. And you couldn't go?</p> <p>14 A. And I said I'm not going.</p> <p>15 Q. All right. And she told you that the</p> <p>16 only way you could be excused from going to the</p> <p>17 deposition was to have a doctor's note. Do you</p> <p>18 remember that?</p> <p>19 A. I remember that.</p> <p>20 Q. Okay. So you told her you were sick</p> <p>21 and you couldn't go and she said to you the only</p> <p>22 way you would be excused is if you had a doctor's</p> <p>23 note?</p> <p>24 A. No. She said -- when we were talking</p> <p>25 about me being sick, what she said was the only</p>	<p style="text-align: right;">389</p> <p>1 Madelyne Hamilton</p> <p>2 MS. HARRIS: Objection.</p> <p>3 MS. HARRIS: Objection.</p> <p>4 Q. Right? That's what she said to you.</p> <p>5 A. She said -- she said that after.</p> <p>6 Q. And your testimony is she never asked</p> <p>7 you what the sicknesses that you were referring</p> <p>8 to, but instead started talking about a memory</p> <p>9 problem. Is that your testimony?</p> <p>10 A. Yes, it is. Yeah.</p> <p>11 Q. Okay. So she never said to you,</p> <p>12 Ms. Hamilton, why are you telling me you're too</p> <p>13 sick to be deposed, what are the health problems?</p> <p>14 A. No, she didn't.</p> <p>15 Q. She didn't ask that?</p> <p>16 A. No. No.</p> <p>17 Q. Instead, she just started out of the</p> <p>18 blue talking about memory problems?</p> <p>19 A. She said -- when I told her that I was</p> <p>20 sick, I have a lot of medical problems and I</p> <p>21 don't want to -- I can't go to Boston because I'm</p> <p>22 sick. I said it's been 18 years, and she said</p> <p>23 does that affect -- she said, well, if you can</p> <p>24 get a note from your doctor about your memory</p> <p>25 problem, it's been a long time, I realize that.</p>
<p style="text-align: right;">388</p> <p>1 Madelyne Hamilton</p> <p>2 way that I would -- that I wouldn't go -- that I</p> <p>3 wouldn't go is if I had a note, referring to my</p> <p>4 memory.</p> <p>5 Q. All right. And did you tell her you</p> <p>6 had any memory problem?</p> <p>7 A. No.</p> <p>8 Q. And so she just out of the blue said</p> <p>9 you needed to have a letter referring to your</p> <p>10 memory?</p> <p>11 A. No. What I said was, it's been -- I</p> <p>12 remember the conversation. It's been 18 years or</p> <p>13 something to that effect, and she said do you</p> <p>14 have a problem with your memory. She said, if</p> <p>15 you get me a doctor's note, call me back.</p> <p>16 Q. But before that, the first -- one of</p> <p>17 the first things you said to her is I'm sick and</p> <p>18 I can't go to this deposition, correct?</p> <p>19 MS. HARRIS: Objection.</p> <p>20 Q. That's what you said to her?</p> <p>21 MS. HARRIS: Objection.</p> <p>22 A. I mentioned that I was sick.</p> <p>23 Q. And she said to you, if you're sick,</p> <p>24 you won't be excused from the deposition unless</p> <p>25 you have a letter from a doctor.</p>	<p style="text-align: right;">390</p> <p>1 Madelyne Hamilton</p> <p>2 It's been a long time. Call me back.</p> <p>3 Q. So she didn't ask you what your</p> <p>4 medical problems were?</p> <p>5 A. No, she never asked.</p> <p>6 Q. And in fact, you said that you were</p> <p>7 too sick to go to Boston, but you knew you</p> <p>8 weren't being asked to go to Boston, right? You</p> <p>9 knew the deposition was supposed to be in New</p> <p>10 York.</p> <p>11 A. It said -- I don't understand anything</p> <p>12 that was on there. I seen 2-something Park</p> <p>13 Avenue. Now, I don't know what that meant. I</p> <p>14 didn't really understand what that meant. What</p> <p>15 like a dispose -- a disposition was here or</p> <p>16 there. I didn't know that. All I knew was that</p> <p>17 I wasn't going to go on a bus and bleed halfway</p> <p>18 there.</p> <p>19 Q. Did Ms. Scapicchio tell you that you</p> <p>20 had to get a letter from your doctor simply</p> <p>21 saying that your health was bad or did she</p> <p>22 specifically say memory?</p> <p>23 A. No. She said my memory.</p> <p>24 Q. So she didn't say you got to get a</p> <p>25 letter saying your health was bad?</p>